IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.9811/07
Asrar Ahmed Vs. Shabir Hussain & Ors.

Date of order : 29/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Amit Singh Shekhawat for the petitioner.

******

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 30.10.2007 whereby the learned trial court on consideration of the plaintiff-non-petitioner, granted one last opportunity to him to adduce his evidence on payment of cost of Rs.300/-. The suit was filed by him for damages.

Learned counsel for the petitioner has argued that the learned trial court has erred in law in allowing the

opportunity to adduce evidence to the petitioner. It was argued that the reasons cited by the petitioner for non production of evidence in time were communicated and in fact the evidence of the plaintiff was closed way back on 14.5.2007. Thereafter, pursuant to the liberty granted by division bench of this Court, the plaintiff moved fresh application. Even then the application was required to be considered on its merits. Grant of opportunity to the petitioner to adduce evidence at this stage was not warranted.

Having heard the learned counsel for the petitioner, I find that against the order of the trial court dated 14.5.2004 regarding closure of the evidence of the plaintiff due to his absence, the plaintiff filed S.B. Civil

Writ Petition No.6372/04, which was rejected and the plaintiff thereafter filed D.B. Special Appeal (W) No.138/07 before the division bench of this Court. The Division Bench of this Court by its order dated 2.2.2007 granted liberty to the petitioner to make a fresh application before the trial court. The impugned order has been passed on consideration of such application.

On perusal of the order it is evident that petitioner has given reasons of his absence. For 14.8.03, the illness certificate of his power of attorney Shri Sadik Ali was produced and thereafter when the matter was fixed for 31.3.2004, the matter was adjourned because the counsel for the defendant met with an accident and then

the matter was posted for 22.4.2004, on which date also it was adjourned due the absence of the Presiding Officer.

In the facts of the case, I do not find that the learned trial court has committed any such error which may warrant interference by this Court.

The writ petition is therefore summarily dismissed.

(MOHAMMAD RAFIQ), J.

RS/